APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,085	07/21/2000	Andreas Kruger	042933/300242	4806

826 7590 10/20/2006		**EXAMINER**
ALSTON & BIRD LLP		MILLER, BRANDON J
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ART UNIT	PAPER NUMBER
2617	

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DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>24 April 2006</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>9-26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>9-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 July 2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Introduction

1.   In view of the Appellant's Brief filed on 04/21/2006, PROSECUTION IS HEREBY

REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following

two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37

CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a

supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or

other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA

35 U.S.C. 102(e)).

Claim 26 is rejected under 35 U.S.C. 102(e) as being anticipated by Hahn et al. (US

6,188,949 B1).

Regarding claim 26 Hahn teaches a decision unit coupled to an operable device, which is

used in vehicle (see col. 5, lines 9-13 and FIG. 1). Hahn teaches a decision unit comprising an

input for receiving sensor signals (see col. 6, lines 17-20). Hahn teaches a decision unit

determining vehicle-specific conditions over a time period of vehicle operation by evaluating the

received sensor signal (see col. 5, lines 35-45 and col. 6, lines 40-50). Hahn teaches converting

the vehicle-specific conditions into a driving profile indicating an actual driving situation of the

vehicle (see col. 7, lines 55-58). Hahn teaches an output for outputting a signal, which is used

for changing the operation states of the operable device connected to the decision unit (see col. 6,

lines 60-67 and col. 7, lines 1-5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 9-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al.

(US 6,188,949 B1) in view of Lemelson et al. (US 6,553,130 B1).

Regarding claim 9 Hahn teaches an operable device to be used in a vehicle, comprising

an operating panel through which a user cause at least one of producing existing operating states

or changing existing operating states of the operable device (see col. 5, lines 9-13 and col. 6,

lines 10-16). Hahn teaches a decision unit, coupled to the operating panel, which receives data

for determining vehicle specific conditions over a time period of vehicle operation by evaluating

the received data (see col. 5, lines 35-45 and col. 6, lines 16-25 & 40-50). Hahn teaches

converting the vehicle-specific conditions into a driving profile indicating an actual driving

situation of the vehicle (see col. 7, lines 55-58). Hahn does not specifically teach blocking or

releasing the existing operating states of the operable device according to whether the actual

driving situation is dangerous or non-dangerous on a basis of a driving profile. Hahn does teach

controlling existing operating states according to an actual driving situation on the basis of a

driving profile (see col. 6, lines 60-67 and col. 7, lines 1-5). Lemelson teaches blocking or

releasing the existing operating states of an operable device according to whether the actual

driving situation is dangerous or non-dangerous on a basis of a driving profile (see col. 2, lines

24-67 and col. 3, lines 5-25). It would have obvious to one of ordinary skill in the art at the time

the invention was made to make Hahn adapt to include blocking or releasing the existing

operating states of the operable device according to whether the actual driving situation is

dangerous or non-dangerous on a basis of a driving profile because the poor traction due to bad

weather and speed of upcoming traffic in the driving profile of Hahn (see col. 6, lines 42-46) are

factors when determining dangerous and non-dangerous driving conditions and it would allow

for improved control of vehicle operation during adverse driving conditions.

Regarding claim 10 Hahn teaches an operable device to be used in a vehicle comprising

an operating panel through which a user cause at least one of producing existing operating states

or changing existing operating states of the operable device (see col. 5, lines 9-13 and col. 6,

lines 10-16). Hahn teaches a decision unit, coupled to the operating panel, which receives data

for determining vehicle specific conditions by measuring fluctuation of a driving speed of the

vehicle over a time period (see col. 5, lines 35-45 and col. 6, lines 16-25). Hahn does not

specifically teach blocking or releasing the existing operating states of an operable device based

on the measured fluctuation. Hahn does teach controlling existing operating states according to

an actual driving situation on the basis of measuring fluctuations of the driving speed of the

vehicle (see col. 6, lines 60-67 and col. 7, lines 1-5). Lemelson teaches blocking or releasing the

existing operating states of an operable device according to vehicle velocity over a time period

(see col. 2, lines 24-67 and col. 3, lines 5-25). It would have obvious to one of ordinary skill in

the art at the time the invention was made to make Hahn adapt to include blocking or releasing

the existing operating states of an operable device based on the measured fluctuation because this

would allow for improved control of vehicle operation during adverse driving conditions.

Regarding claim 11 Hahn teaches wherein the operable device is operable to perform at

least one of receiving and transmitting data (see col. 5, lines 20-25 and FIG. 1).

Regarding claim 12 Hahn and Lemelson teach a device as recited in claim 11 and is

rejected given the same reasoning as above.

Regarding claim 13 Hahn teaches equipment which collects information on at least one

of conditions are states under which or by which the operable device is currently being operated,

and transmits the information as data to a decision unit (see col.5, lines 35-45 and col. 6, lines

16-25).

Regarding claim 14 Hahn and Lemelson teach a device as recited in claim 13 and is

rejected given the same reasoning as above.

Regarding claim 15 Hahn and Lemelson teach a device as recited in claim 13 and is rejected given the same reasoning as above.

Regarding claim 16 Hahn and Lemelson teach a device as recited in claim 13 and is rejected given the same reasoning as above.

Regarding claim 17 Hahn and Lemelson teach a device as recited in claim 9 except for an operable device comprising a receiving unit, wherein data is received by a receiving unit and is transmitted to a decision unit to be used alone or together with other data to control the blocking of the operating states or releasing of the operating state of an operable device. Hahn does teach data that is received by a receiving unit and is transmitted to a decision unit to be used alone or together with other data to control operating states of an operable device (see col. 6, lines 40-50 & 60-67 and col. 7, lines 1-5). Lemelson teaches blocking or releasing the existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous (see col. 2, lines 24-67 and col. 3, lines 5-25). It would have obvious to one of ordinary skill in the art at the time the invention was made to make the invention adapt to include an operable device comprising a receiving unit, wherein data is received by a receiving unit and is transmitted to a decision unit to be used alone or together with other data to control the blocking of the operating states or releasing of the operating state of an operable device because it would allow for improved control of vehicle operation during adverse driving conditions.

Regarding claim 18 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 19 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 20 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 21 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 22 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 23 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 24 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 25 Hahn teaches a method for controlling an operable device, which is used in a vehicle (see col. 5, lines 9-13). Hahn teaches controlling an operating panel by a user to cause at least one of producing existing operating states or changing existing operating states of the operable device (see col. 5, lines 9-13 and col. 6, lines 10-16). Hahn teaches receiving data in a decision unit which is coupled to an operating panel; determining vehicle specific conditions over a time period of vehicle operation by evaluating the received data (see col. 5, lines 35-45 and col. 6, lines 16-25 & 40-50). Hahn teaches converting the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle (see col. 7, lines 55-58). Hahn does not specifically teach blocking or releasing the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on a basis of a driving profile. Hahn does teach controlling existing operating states according to an actual driving situation on the basis of a driving profile (see col. 6, lines 60-67

and col. 7, lines 1-5). Lemelson teaches blocking or releasing the existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous on a basis of a driving profile (see col. 2, lines 24-67 and col. 3, lines 5-25). It would have obvious to one of ordinary skill in the art at the time the invention was made to make Hahn adapt to include blocking or releasing the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on a basis of a driving profile because the poor traction due to bad weather and speed of upcoming traffic in the driving profile of Hahn (see col. 6, lines 42-46) are factors when determining dangerous and non-dangerous driving conditions and it would allow for improved control of vehicle operation during adverse driving conditions.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vallancourt U.S Patent No. 6,263,282 B1 discloses a system and method for warning of dangerous driving conditions.

Parvulescu et al. U.S. Patent No. 6,687,497 discloses a method, system and structure for disabling a communication device during the occurrence of one or more predetermined conditions.

MacGregor et al. U.S. Patent No. 6,450,587 B1 discloses vehicle brake safety system apparatus and methods.

list et al. U.S. Patent No. 6,079,258 discloses a method for analyzing the driving behavior of motor vehicles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J. Miller whose telephone number is 571-272-7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 16, 2006

GEORGE ENG
SUPERVISORY PATENT EXAMINER